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| | | | MRUK, BRIAN P | |
| | | | ART UNIT | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 20040519

Application Number: 09/758,685

Filing Date: January 11, 2001

Appellant(s): CARNALI ET AL.

MAILED

MAY 24 2004

GROUP 1700

Ronald A. Koatz
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 11, 2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-12 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8). Specifically, the examiner notes that appellant's statement of the Grouping of the Claims indicates that claims 1-11 (i.e. the "composition claims") stand or fall by themselves and that claim 12 (i.e. the "method claim") stands or falls by itself.

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

EP 851,022 A2

Zhou et al

July 1, 1998

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

A) Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Zhou et al, EP 851,022 A2.

Zhou et al, EP 851,022 A2, discloses rinse aid composition containing scale inhibiting polymers (abstract). It is further taught by Zhou et al that the scale inhibiting copolymer contains 50-99% by weight of an olefinically unsaturated carboxylic monomer and 1-50% by weight of at least one monomer selected from the group

consisting of copolymerizable sulfonated monomers, copolymerizable nonionic monomers, and mixtures thereof, wherein the resulting polymer has a molecular weight between 1,500 to 250,000 (page 2, lines 1-15). It is further taught by Zhou et al that a preferred scale inhibiting copolymer includes a tetrapolymer of 4-sulfophenol methallyl ether, sodium methallyl sulfonate, acrylic acid and methyl methacrylate (page 3, lines 1-25), and that the composition is used in the rinse cycles of a dishwashing machine (page 10, lines 5-18), per the requirements of instant claims 1-12. Zhou et al discloses that the composition further contains 1-40% by weight of a surfactant system (page 3, lines 37-45), 0-60% by weight of a builder system (page 7, lines 45-51), 0.005-20% by weight of sequestrants (page 8, lines 45-50), 0.1-40% by weight of a lime soap dispersant (page 9, lines 9-14), 1-30% by weight of a solvent (page 9, lines 31-40), and 0.5-20% by weight of hydrotropes (page 10, lines 1-4). Specifically, note Examples 3 and 4, which discloses rinse aid compositions used in a dishwashing machine rinse cycle. Therefore, instant claims 1-12 are anticipated by Zhou et al, EP 851,022 A2.

(11) Response to Argument

Appellant argues that Zhou et al, EP 851,022 A2, does not disclose the delivery of an anti-scaling polymer to a cold, penultimate rinse cycle preceding a heated, final rinse cycle. However, the examiner respectfully maintains that Zhou et al, EP 851,022 A2, does indeed teach this limitation. Specifically, the examiner maintains that Zhou et al, EP 851,022 A2, discloses that "The rinse aid composition is designed for use in the final rinse steps of the machine dishwashing operation, separately from the detergent

composition used in the main wash cycle" (see page 1, lines 11-12 and page 16, lines 19-30 of Zhou et al, EP 851,022 A2), per the requirements of the instant invention.

Furthermore, Zhou et al clearly teaches that the composition is used in the rinse cycle, which would include all of the phases of the rinse cycle. Thus, since Zhou et al clearly discloses that the rinse aid is delivered during several rinse cycles, and appellant's own disclosure states that all wash programs consist of at least one main wash, one cold rinse cycle, and one hot rinse cycle (see page 11, lines 1-17 of the instant specification), the examiner maintains that Zhou et al meets the limitations of the instant claims. With respect to appellant's showing in Examples 6-9 on page 47 of the instant specification, the examiner respectfully asserts that appellant only shows that the introduction of the composition during a rinse cycle (i.e. during the pre-rinse or final rinse cycles) offers improved glass film scaring versus introducing the composition during a wash cycle (i.e. during the pre-wash or main wash cycles). Thus, since Zhou et al clearly teaches that the rinse aid is introduced during the rinse cycle of a machine dishwashing process, the examiner maintains that Zhou et al anticipates the instant claims. Furthermore, the examiner respectfully asserts that that the limitation "wherein said polymer is released into a cold, penultimate rinse cycle preceding a heated, final rinse cycle of a dishwashing sequence" recited in instant claim 1 is an intended use limitation that is not accorded any patentable weight in a composition claim.

For the above reasons, it is believed that the rejections should be sustained.

Art Unit: 1751

Respectfully submitted,

Brian P Mruk
Primary Examiner
Art Unit 1751

Brian P. Mruk

Brian P. Mruk
May 19, 2004

Conferees

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